UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Transmission Planning Processes Under Order No. 890	)	Docket No. AD09-8-000

COMMENTS OF THE MASSACHUSETTS DEPARTMENT OF PUBLIC UTILITIES AND THE MASSACHUSETTS DEPARTMENT OF ENERGY RESOURCES

I. INTRODUCTION

The Department of Public Utilities of the Commonwealth of Massachusetts ("Mass DPU")[1] and the Massachusetts Department of Energy Resources ("MDOER")[2] (collectively "Massachusetts") submits these comments in response to the Commission's October 8, 2009, "Notice of Request for Comments" ("Request") in this proceeding regarding transmission planning processes under Order No. 890. Massachusetts files these comments in support of the federal transmission planning processes, as articulated in Order No. 890, which ensure

[1] The Mass DPU is the agency of the Commonwealth of Massachusetts charged with general regulatory supervision over gas and electric companies in Massachusetts and has jurisdiction to regulate rates or charges for the sale of electric energy and natural gas to consumers. MASS. GEN. LAWS c. 164, § 76 et seq. Therefore, the Mass DPU is a "state commission" as defined by 16 U.S.C. § 796(15) and 18 C.F.R. § 1.101(k).

[2] MDOER is the Massachusetts executive agency responsible for establishing and implementing the Commonwealth's energy policies and programs, generally. Pursuant to MASS. GEN. LAWS c. 25A, § 6, MDOER is authorized and directed to: (1) plan, develop, oversee, and operate programs to help consumers understand, evaluate, and select retail energy supplies and related services offered as a consequence of electricity and gas utility restructuring; (2) develop and administer programs relating to energy conservation, demand-side management, alternative energy development, non-renewable energy supply and resources development, energy bond authority, energy information and energy emergencies; (3) advise, assist, and cooperate with other state, local, regional, and federal agencies in developing appropriate program and policies relating to energy planning and regulation in the Commonwealth; (4) develop energy data and information management capabilities to aid energy planning and decision-making; and (5) promote the development of sound energy education programs.

reliability of the bulk power system and reduce congestion. These transmission planning processes work in New England to address reliability needs and are sufficient to address emerging transmission challenges such as integrating renewable resources. Any modifications to transmission planning processes should ensure that, in New England, competitive market structures, which require transmission development costs to be internalized in the price of electricity, continue to select the resources that will be developed to meet the region's electricity needs. Preserving New England's competitive model will allow the New England states to build on the success of their competitive wholesale electricity and emission markets and will appropriately maintain state jurisdiction over resource adequacy.

II. COMMUNICATIONS

Massachusetts requests that the individual identified below be placed on the Commission's official service list in this proceeding and that all communications concerning this filing and future filings in this proceeding should be directed to:

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III. THE COMMISSION'S TRANSMISSION PLANNING PROCESSES WORK IN NEW ENGLAND TO ENSURE RELIABILITY AND REDUCE CONGESTION

Massachusetts supports the successful federal transmission planning processes that have ensured reliability and reduced congestion in New England. With the support and guidance of the Commission and the collaboration of ISO-New England, Inc. ("ISO-NE") and stakeholders, New England has developed an active, coordinated, and productive transmission planning process. It is a collaborative approach, which involves all interested stakeholders and takes account of local and regional issues. The transmission planning process in New England identifies regional reliability needs and allows market-based solutions to emerge, such as generation or merchant transmission alternatives. Under the economic study provisions required by Order No. 890, the planning process also considers "what if" scenarios based upon developing state and federal energy and environmental policies.

Since 2002, New England has sited several major transmission projects to address reliability needs identified through the planning process.[3] In addition, through its competitive wholesale market mechanisms, New England has developed significant new generation and demand resources.[4] These investments show that New England's planning process and competitive market mechanisms work to deliver needed resources.

While there is always room for improvement, any changes to the transmission planning process must not interfere with the operation of regional planning processes or competitive wholesale markets that have proven successful. In particular, New England's planning process

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[3] Approximately $4 billion of transmission investment has been put into service since 2002, and another $5 billion is under study or under construction.

[4] The results of the third Forward Capacity Auction, which were filed with the Commission on October 30, 2009, in Docket No. ER10-186-000, demonstrate the successful development of these resources.

should not be modified to select resources outside of competitive market structures or to subsidize associated infrastructure development costs through the regional transmission tariff. In New England, all generation competes on an all-in, delivered cost basis, including the cost of interconnection.[5] This competitive model is resource neutral and appropriately allocates the risks of development and transmission costs to developers and not captive customers. It levels the playing field for all generation options, which compete to meet resource needs at the lowest delivered price of electricity. Market-based environmental programs function in this context to monetize the benefits of renewable energy and the costs of emissions.

Transmission planning that in effect selects the resources to be developed through *de facto* subsidization of transmission costs would jeopardize the competitive markets that New England relies on to procure generation, the very markets that have matured under the Commission's steady focus on market evolution and efficiency. Perversely, an expanded resource planning approach is likely to inhibit the development of renewable resources located in New England, diminish the cost and efficiency benefits of New England's competitive markets, and result in New England consumers overpaying for resources and transmission.

IV. COMMISSION TRANSMISSION PROCESSES DESIGNED SOLELY TO INTERCONNECT TO CERTAIN RENEWABLE ENERGY SOURCES ARE UNWARRANTED

Improving our nation's energy infrastructure and diversifying electricity fuel sources should be part of comprehensive energy and environmental policy addressing climate change. Any such policy will require cost-effective, sustainable solutions that benefit customers and the environment over the long term. These solutions should draw on existing state and federal

[5] The ISO New England Open Access Transmission Tariff ("OATT") requires generation developers to pay interconnection costs. See OATT, Section II, Schedule 11.

regulation, build upon existing state and regional policy initiatives and markets, and rely upon free market principles to discipline costs and encourage technological innovation. Conversely, the Request seemingly proposes to expand regional planning in a way that would predetermine resource selection in isolation, with no link to established or future energy or environmental compliance markets. This is likely to cause more harm than good by reducing the economic efficiency of both electricity wholesale market outcomes and emission cap and trade programs.

Massachusetts is committed to reducing greenhouse gas ("GHG") emissions[6] and recognizes that a key component of meeting this goal is producing electricity without emissions.[7] Massachusetts has joined the Regional Greenhouse Gas Initiative ("RGGI"), which establishes caps on carbon emissions from large electric generation facilities in ten Northeast states. Massachusetts also requires all retail electric suppliers to provide a minimum percentage of kilowatt hour sales to end-use customers from new renewable energy generating sources.[8] Other states in New England have similar renewable energy portfolio standards ("RPS").

New England operates its wholesale electricity market in full compatibility with these market-based environmental programs. Renewable energy credits generated by RPS programs

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[6] For example, the Global Warming Solutions Act requires Massachusetts to reduce GHG emissions, relative to 1990 levels, by 10 to 25 percent by 2020, with the target increasing to 80 percent by 2050. Global Warming Solutions Act, MASS. STAT. 2008, c. 298.

[7] An Act Relative to Green Communities, enacted in Massachusetts in July 2008, includes a broad range of provisions intended to enhance the development of renewable and alternative energy and to increase energy efficiency in the Commonwealth. See generally Act Relative to Green Communities, MASS. STAT. 2008, c. 169. It challenges the Commonwealth to meet 15 to 20 percent of its electric load by the year 2020 through demand side resources and renewable and alternative generation. Id. § 116(a)(1-2). It also encourages investment in systems that produce electricity without emissions such as utility-owned solar generation and net metering facilities. Id. §§ 58, 78.

[8] MASS. GEN. LAWS c. 25A, § 11F(a); see also 225 CODE OF MASS. REG. §§ 14.08(3), 15.08(3).

are actively traded in the region, decreasing prices for renewable resources in regional wholesale electricity markets.[9] Similarly, allowances associated with the national caps on nitrogen oxide and sulfur dioxide and the regional cap on carbon dioxide are actively traded as part of RGGI and Clean Air Act programs, increasing prices for fossil-fuel generated units in regional wholesale electricity markets.

New England's competitive wholesale markets, RPS programs, and regional carbon cap benefit customers and advance the energy and environmental policies of the New England states. These competitive wholesale electricity and emissions markets minimize costs to electricity consumers by substituting competitive market outcomes for administrative decisions. Because New England relies on competitive markets for resource selection, understanding and improving the interaction between market outcomes and state energy and environmental policy is a continual focus of the New England states. New England's experience over the last 15 years, however, demonstrates that these markets efficiently and economically balance the competing interests inherent in providing safe, reliable, low-cost electric service and reducing GHG emissions. The competitive mechanisms at play in New England are a necessary condition of industry deregulation, ensuring the appropriate assignment of risks to those best suited to manage them, while delivering on retail choice, technological innovation, cost discipline, and service quality.

Regulatory oversight in general, and transmission planning in particular, should foster the continued use of these competitive mechanisms in regions like New England and provide only for backstop reliability solutions. Transmission planning that selects renewable resources

[9] For the 2007 RPS Compliance Year, MDOER reported that there was a supply surplus of renewable energy credits. Annual RPS Compliance Report for 2007, as revised Dec. 1, 2008, available at http://www.mass.gov/Eoeea/docs/doer/rps/rps-2007annual-rpt.pdf.

and assigns associated transmission costs separately to ratepayers would both abandon New England's competitive procurement of resources and hinder development of local demand response and renewable resources. Such expansion of planning from transmission to resource development would not only encroach on traditional state authority over electricity generating resource development, but would be inefficient and is unnecessary in market regions where the states participate cooperatively in developing local renewable resources in the context of competitive market mechanisms and coordinated infrastructure siting.

On September 15, 2009, the six New England Governors adopted their *Renewable Energy Blueprint*, which identifies a regional vision for developing renewable energy ("Blueprint").[10] To inform the development of this vision, the Governors, through the New England States Committee on Electricity, asked ISO-NE to conduct an economic study of potential renewable generation in New England, the associated transmission infrastructure required to integrate them and estimated costs. The study, referred to as the *Renewable Development Scenario Analysis* ("RDSA"), demonstrates that the New England region has a vast quantity of untapped renewable resources, including more than 12,000 megawatts of on- and off-shore wind power potential. The RDSA shows that conservative development of these resources will enable New England to meet its renewable energy goals, while more aggressive development could enable New England to export power to neighboring regions. The RDSA also shows that the potential wind generation could provide downward pressure on the marginal prices of energy and carbon allowances and generate revenues through the creation and sale of renewable energy credits. Given that the transmission required to reliably transfer such power to load is located within New England, the size and scope of these projects, which

[10] A copy of the Blueprint is available at http://www.nescoe.com/Blueprint.html.

can be implemented incrementally, are modest by comparison to the high voltage transmission projects being considered nationally.

The Blueprint demonstrates that New England has the necessary authority, expertise, commitment and cooperative relationships to bring cost-effective, secure, low-carbon resources to market. The Blueprint examines opportunities for the New England states to synchronize procurement of, and contracting for, renewable power and concludes that there is sufficient commonality of purpose to achieve the shared goals of the region. The Blueprint similarly examines the review processes for siting of interstate transmission and concludes that the states are poised to increase their level of cooperation and build on their siting experience to better coordinate and expedite these reviews.

The Blueprint demonstrates that New England is committed to reducing its reliance on carbon-emitting generation through the development of renewable resources, but in the context of its existing competitive mechanisms for identifying least-cost resources. In New England, regulators and policymakers do not determine resources. They set caps and floors and rely on markets - energy markets and emission markets – to determine the most efficient outcomes. Competition in wholesale energy markets and the use of market-based environmental programs are critical tools for controlling the costs of developing renewable and low-carbon resources. Any transmission planning improvements should be limited to improvements in planning for backstop, reliability-based transmission projects and should allow the continued reliance on market mechanisms to meet current and future energy and environmental policy mandates in the most cost-effective and efficient way.

V. COMMISSION TRANSMISSION PROCESSES TO SELECT PARTICULAR RESOURCES EXCEED THE COMMISSION'S JURISDICTION

Resource adequacy decisions are best made, as they have historically been, by states and regions. States are best positioned to assess the availability, viability, and costs of various resource choices and the impact of these decisions on the health and welfare of their citizens. In its Final Rule in Order No. 890, the Commission recognized states' authority over resource adequacy decisions.[11] Transmission planning processes that in effect select particular resources to be developed by subsidizing the cost of transmission would be inconsistent with Order No. 890 and would diminish the ability of individual states to govern adequacy in contravention of the Federal Power Act ("FPA").

The FPA, when read as a whole, distinguishes clearly between the Commission's jurisdiction over interstate transmission and wholesale sales of electricity and the states' traditional jurisdiction over generation and adequacy. The FPA preserves such state jurisdiction by specifying that the Commission "shall not have jurisdiction, except as specifically provided . . . over facilities used for the generation of electric energy."[12] The Energy Policy Act of 2005, which added section 215 to the FPA, reiterated the limit of the Commission's jurisdiction by stating that the Commission has no authority "to order the construction of additional generation or transmission capacity or to set and enforce compliance

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[11] The Commission stated "The transmission planning processes we require in this Final Rule are not intended in any way to infringe upon state authority with regard to integrated resource planning. Rather, we believe that the transparency provided under an open regional transmission planning process can provide useful information which will help states to coordinate transmission and generation siting decisions, allow consideration of regional resource adequacy requirements, facilitate consideration of demand response and load management programs at the state level, and address other factors states wish to consider." *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, at n.274 (2007).

[12] 16 U.S.C. § 824(b)(1) (2006).

with standards for the adequacy or safety of electric facilities or services."[13] An expansion of planning from transmission to resource development would unjustifiably allow the Commission to intrude into state authority over adequacy and generation, an outcome that the FPA explicitly prohibits.

VI. CONCLUSION

Massachusetts supports the Commission's efforts to improve transmission planning processes to ensure reliability and reduce congestion under Order No. 890. Expanding such processes beyond reliability and congestion for the purpose of dictating generating resource outcomes, including the interconnection of certain renewable energy and subsidization of transmission costs, would disrupt regions like New England that rely on competitive energy and emissions markets to select resources. It would also impermissibly encroach on the rights of states like Massachusetts to determine the resources needed to meet their energy needs and current and future environmental policy mandates. As the Commission contemplates improvements to transmission planning, and emerging transmission challenges, Massachusetts asks the Commission to consider the success of the market-based mechanisms in regions like

[13] 16 U.S.C. § 824o(i)(2); see also 16 U.S.C. § 824o(a)(3) (supporting limit on Commission jurisdiction by specifying that reliability standard "does not include any requirement to enlarge . . . or construct new transmission capacity or generation capacity").

New England and to develop transmission planning improvements that foster the continued use and evolution of competitive markets.

Respectfully submitted,

MASSACHUSETTS DEPARTMENT OF PUBLIC UTILITIES

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon each party on the official service list compiled by the Secretary in this proceeding in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.2010.

Dated at Boston, Massachusetts, this 23rd day of November, 2009.

/s/ Shaela McNulty Collins
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